IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

CRL.A.No. 982 of 2002()

ST.401/2000 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOZHIKODE
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APPELLANT/COMPLAINANT:

M/S.KARSANDAS BROS.,
BIG BAZAR, KOZHIKODE., A SOLE PROPRIETORY CONCERN REPRESENTED BY ITS PROPRIETOR HARIDAS RAMJI.

BY ADV. SRI.N.K.SANATH KUMAR

RESPONDENT/ ACCUSED:
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1. **M/S.KOSHIMA ELECTRONICS & INDUSTRIES AP45, 9TH STREET, NEAR SBOA PRIMARY SCHOOL, ANNA NAGAR, CHENNAI 600101 A SOLE PROPRIETORY CONCERN REPRESENTED BY ITS PROPRIETOR RM SELVAKUMAR.**

2. **STATE OF KERALA, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.**

BY PUBLIC PROSECUTOR SRI. AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.982 of 2002

Dated this the 10th day of September, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 15.10.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl